

RESPONSE TO COMMENTS ON THE 2002 TRIENNIAL REVIEW

- 1. Debbie Webster**
Sonoma Water District
Santa Rosa, CA
Phone message received

Comment: The Water District wants to be kept informed on Draft List Issue No. 7, "Remove site specific objectives for copper, cadmium, and lead for middle Santa Ana River reaches and their tributaries." The Water District requests that position papers are mailed to them.

Response: Staff will keep the District on the mailing list for all Triennial Review issues, including the one identified.

- 2. Phil Miller**
Elsinore Valley Municipal Water District (EVMWD)
Written comments / March 20, 2002

Comment: In regard to TMDL's for Lake Elsinore and Canyon Lake, Lake Elsinore is listed as impaired by sediment. This might be appropriate, but it is doubtful. On the other hand, Canyon Lake is not listed as impaired by sediment where it undoubtedly is. This should be taken into account during TMDL development (Draft Issue No.12).

Response: TMDL development is not a Basin Plan triennial review issue. Board staff is working on the 303(d) listing and development of TMDLs for Lake Elsinore and Canyon Lake, both listed on the draft 2002 California 303 (d) list and TMDL Priority Schedule. Staff is attempting to remove the Lake Elsinore sediment 303 (d) listing, as we believe the listing is inappropriate. State Board staff requested more Canyon Lake data, before it can be listed. Staff is collecting more data to support the listing and the development of a Canyon Lake sediment TMDL.

- 3. Donald Calkins**
City of Anaheim
Written comments / March 27, 2002

Comments: We are concerned that the North Orange County VOC plume is not even mentioned in the Basin Plan. The plume, which contains billions of gallons of water with trichloroethylene and tetrachloroethylene concentrations above the MCL, has spread over four miles in length along the 91 Freeway in Fullerton and Anaheim. The City of Anaheim believes that immediate action on the part of the Regional Board is needed in order to protect groundwater from further degradation. The Orange County Water District (OCWD), using funds received from water producers, is moving forward with plans to conduct remediation of the plume. (However) Anaheim believes that the Regional Board should make a concerted effort to coordinate a regional cleanup of this plume at the expense of the parties responsible for the contamination.

Response: Section 5-44 of the 1995 Basin Plan discusses Groundwater Contamination from Volatile Organic Compounds. Staff believes that the OCWD has the expertise and resources to adequately continue the coordinated remediation of the VOC plume. The Regional Board has and will continue to assist in the remediation efforts of the VOC plume, through participation in project work groups, oversight of various clean up projects and appropriate use of the Board's regulatory and enforcement authority.

**4. Pat Kilroy
City of Lake Elsinore
Written comments / March 28, 2002**

Comment A: Revise waste discharge requirements for dairy operations in the Lake Elsinore/San Jacinto River Watershed by updating the definition of agronomic application rates of manure spreading to be based on the primary element impairing the beneficial use of water within the drainage basin. In addition, require soil testing of cropland prior to manure spreading to determine the appropriate application rate based on the deficiency of the element of concern. As an alternative means to potentially limiting manure spreading or as a means to reduce costs, develop an alternative offset program to ensure that water quality impacts are mitigated.

Response A: Changing the application rate of manure for the San Jacinto River Watershed and specifying agronomic application rates can be accomplished by revising waste discharge requirements for the dairies in the watershed. This is not a matter for the Triennial Review at this time.

Comment B: Adopt water quality objectives for inland surface waters similar to the San Diego RWQCB's policy for biostimulatory substances (nutrients) and exceptions to the policy to allow environmental use of reclaimed water. Include a minimum treatment standard for the environmental use of reclaimed water of best available technology (BAT) economically achievable for the removal of nutrients.

Response B: We have added, "Review Basin Plan nutrient objectives for surface waters," as Issue No. 29 to our Final Draft Triennial Review Priority List. It is unlikely that we will be able to address this issue during this Triennial Review. Review of nutrient objectives for the 303 (d)-listed San Diego Creek is part of the proposed triennial review (see our response to Commenter No. 6). Nutrient standards for Lake Elsinore, and certain other 303 (d)-listed impaired water bodies will be established through the TMDL process.

Board staff is working with the SWRCB staff to develop an EPA-directed nutrient criteria development plan to add nutrient criteria into water quality standards statewide. The work of setting nutrient standards for 303 (d) listed waters, and other activities that will be undertaken to satisfy the EPA requirement, will lead to development of region-wide nutrient

standards. This work will likely not take place during this Triennial Review

Comment C: Revise waste discharge requirements for the use of reclaimed water in the Lake Elsinore/San Jacinto River Watershed to meet the minimum treatment standard of best available technology (BAT) economically achievable for the removal of nutrients. As an alternative means to potentially limiting reclaimed water discharge or as a means to reduce costs, develop an alternative offset program to ensure that negative water quality impacts are mitigated.

Response C: Revising waste discharge requirements in the manner suggested is not a matter for the Triennial Review. TMDLs being developed to address impairment of Canyon Lake and Lake Elsinore will likely address nutrient loadings from all sources in the tributary watershed. When region-wide or watershed-wide nutrient standards, are amended into the Basin Plan, these standards will be incorporated into WDRs as appropriate. It will be the dischargers' decision to choose appropriate technology to comply with these requirements.

**5. Michael Dietrich / Acting Deputy Forest Supervisor
San Bernardino National Forest
Written comments / March 29, 2002**

Comments: Concerning (Draft List) Issue No. 10: designate new reaches of existing streams, to more accurately assign beneficial uses:

- A. Lytle Creek – from Miller Narrows downstream to Interstate 15 (intermediate reach) include WARM. A COLD designation may have an adverse affect on the speckled dace (a native fish species to this stream system and a Forest Sensitive Species).
- B. Mill Creek – It is the Forest's opinion, that the Intermediate Reach for WARM should not extend beyond Mountain Home Village. There is very valuable riparian and riparian dependent species within this reach of stream; there is a serious concern that a change to WARM would have an adverse effect on those resources. We do agree that the reach from Forest Falls Bridge to Mountain Home Village can be designated WARM. This portion of the reach is a wide alluvial flood plain, with minimal stream shade and can, therefore, naturally have temperatures above 68 degrees F.
- C. Santa Ana River from Alder Creek downstream to Seven Oaks Dam (Reach 6) include WARM. The Forest supports the designation of this reach as WARM. All of Reach 6 is within the inundation zone of the Seven Oaks Dam operation, and has already been mitigated for habitat loss and water quality.
- D. Santa Ana River from Alder Creek to Headwaters remain COLD (Reach 7). The Forest supports the designation of this Reach to

remain COLD. The habitat and trout fishery within this reach is considered to be in very good condition.

Response: This issue has been elevated to No.6 on the Final Draft Triennial Review Priority List and staff anticipates reviewing it during this triennial review. A task force of stakeholders has committed to studies of the beneficial uses of these waters.

A. and B. Studies of these reaches will be made, in consultation with the Forest Fisheries Biologist and fishery specialists and other interested parties, before making recommendations for revising beneficial use designations for these reaches.

B. Board staff's observation of this Reach is that it appears to be appropriately designated with WARM beneficial use. However, staff will seek a consensus from all stakeholders for this, or other, proposed revisions of BU designations.

C. Comment noted.

**6. Susan Hatfield
USEPA
Written comments / April 5, 2002**

Comment A Nutrient Objectives (National Priority) Draft List Issue 3. "Review nutrient objective for San Diego Creek," should be expanded to include an update of Basin Plan objectives for overenrichment. In 2001, the EPA recommended that each State develop a nutrient criteria development plan to outline the plan to add nutrient criteria into their water quality standards. During this triennial review, the Regional Board should finalize and implement its nutrient criteria development plan.

Response A The SWRCB is coordinating an effort to finalize and implement a statewide nutrient criteria development plan during the period of this triennial review. Regional Board staff are cooperating with the SWRCB in this effort. As a result of the complexity of developing an update of Basin Plan objectives for overenrichment and the higher priority of other issues, staff will not be able to address this issue completely during this triennial review.

Review of nutrient objectives for the 303 (d)- listed San Diego Creek is a high priority. In addition, we are developing nutrient objectives for other 303 (d)-listed waters in our region as part of the TMDL process.

Comment B. Bacteria Objectives (National Priority). (Draft List) Issue No. 4, "Revise objectives for REC-1 and REC-2 uses based on USEPA's national criteria" is consistent with EPA's national priority for bacterial criteria.

Response B: This will be taken up during this Triennial Review.

- Comment C: Develop Wetland Impacts Mitigation Criteria. (Draft List) Issue No. 5
“Develop criteria for mitigating impacts to wetlands and other waters of the State...” EPA supports the proposed action and recommends coordination with other State and Federal agencies to ensure consistency.
- Response C: This issue is considered a high priority and will likely be considered during this triennial review. Staff will coordinate this work with appropriate state and federal agencies.
- Comment D: Chlorine Objectives (National Priority) (Draft List) Issue 6, “Revise numeric objective for residual chlorine for discharges to surface waters” is consistent with EPA’s national priority for chlorine criteria. Chlorine objectives consistent with EPA’s 1984 guidance should be adopted into the Basin Plan during this Triennial Review.
- Response D: Revising numeric objectives for residual chlorine in discharges to surface waters is a priority. However, staff does not expect to have sufficient resources to complete a review of this issue during this Triennial Review. The current Basin Plan water quality objective for residual chlorine is that wastewater discharged shall not exceed 0.1 mg/l for ocean and inland waters. Until this issue can be studied, staff believes that the current Basin Plan objective appropriately protects water quality standards.
- Comment E: Removal of Site Specific Copper, Cadmium and Lead Objectives.
“Remove site specific objective for copper, cadmium, and lead for middle Santa Ana River reaches and their tributaries,” will mean that the updated California Toxics Rule criteria based on new scientific information will be in place. EPA supports this action as a priority.”
- Response E: Comments noted. This is a high priority for this Triennial Review.
- Comment F: Ammonia Objectives (National Priority) “Review ammonia objectives based on 1999 USEPA national criteria is consistent with EPA’s national priority for ammonia criteria. EPA supports the staff recommendation to review all Basin Plan ammonia criteria in light of the revised national criteria guidance published by EPA in 1999. The Basin Plan triennial review time frame for accomplishing this task falls within the (EPA 2004) deadline.”
- Response F: Comments noted. This is a high priority for this Triennial Review.
- Comment G: MUN beneficial use. (Draft List) Issue 14, “Review/revise beneficial uses designations for Laguna, Lambert, Peters Canyon, Siphon Reservoirs”. EPA supports this review and suggests that the MUN beneficial uses also be reviewed for water bodies such as Baldwin Lake and Lake Elsinore, which have seasonally high levels of TDS. It may be that seasonal designation of MUN would better protect the uses in these types of water bodies.
- Response G: Comment noted.

Creating a seasonal designation of MUN for Baldwin Lake and Lake Elsinore is not appropriate for these waters and is not being considered at this time.

Baldwin Lake is a sink and periodically dries completely, but may impound water for extended periods following a winter or winters of above average precipitation. TDS levels in Baldwin Lake fluctuate widely and increase well above established TDS levels suitable for MUN as the lake water evaporates. These cycles are not seasonal and cannot be predicted.

Lake Elsinore is currently managed to maintain a minimum water surface elevation. TDS concentrations may rise or fall in response to unpredictable inflow and outflow cycles, based on the amounts of precipitation in its tributary watershed. Only when much-greater-than-average rainfall results in the lake filling to overflowing do TDS levels drop below the TDS concentration specified for MUN in the SWRCB's "Sources of Drinking Water" policy. The SWRCB's "Sources of Drinking Water" policy does provide for exceptions from the policy for surface waters exceeding 3,000 mg/l TDS.

Comment H: New Objectives Consistent with Re-evaluation of the California Toxics Rule (CTR) Criteria (National Priority). EPA is committed to a schedule for re-evaluating the criteria included in the CTR for selenium, mercury, PCP, and certain metals over the next several years. Once this is done, EPA is committed to propose to amend, as necessary, those in the CTR. EPA is in the process of amending the CTR and will proceed with this promulgation unless the state and or Regional Boards adopt new objectives based on the new federal criteria guidance.

Response H: As the CTR criteria are re-evaluated, we will consider amending the Basin Plan accordingly, to the extent resources allow. No resources for this activity have been identified in the current Triennial Review.

Comment I: Procedures for Implementing Narrative Objectives in Impaired Waters. During this triennial review, the Regional Board should ensure that the Basin Plan includes procedures for implementing any and all narrative criteria that may be used to regulate point source discharges of toxic pollutants to impaired water bodies.

Response I: When the Basin Plan is amended by a TMDL to address an impaired water body, TMDL implementation plans do contain procedures for implementing narrative criteria necessary to achieve water quality standards, including control of point source discharges of toxic pollutants. Since these procedures are, and continue to be, included in TMDL implementation plans amended to the Basin Plan, it is not necessary to consider this matter separately in the Triennial Review.

7. Suzanne Wilson
City of Anaheim Public Utilities Department
E-mailed comments received April 10, 2002

Comment: The Public Utilities Department is concerned about any further regulations pertaining to discharges of potable water with a chlorine residual. We request that public drinking water systems be included in the development of any new regulations. Please provide this Department with the opportunity to comment on these regulations during the process.

Response: Comment noted. See response to Comment 6.D. Staff will endeavor to notify operators of public drinking water systems of any proposed changes to chlorine residual objectives.

8. Stephen E. Stump
Riverside County Flood Control and Water Conservation District
E-mailed comments received April 11, 2002

Comment A: (Draft List) Issue No. 12 – “Consider Water Code § 13241 factors in relation to compliance with water quality objectives during wet weather (especially costs and need for housing).” The narrative references only Orange County; any cost considerations should also take into account Riverside County. Regarding expecting the affected stakeholder community to provide resources, we recommend that Regional Board staff should take the lead in identifying grants that will pay for consulting services rather than expecting the municipalities to further tax resources that will be depleted in complying with the new MS4 permits.

Response A: This issue was included on the priority list as an issue of regional interest to MS4 permit holders in Riverside, San Bernardino and Orange Counties. Staff has met with stakeholders, including Riverside County Flood Control and Water Conservation District, to explore interest in stakeholder-supported, collaborative studies of triennial review issues, primarily this one. Key stakeholders expressed interest in and support of this initiative.

Board staff makes an effort to share information concerning grant opportunities with all stakeholders, and will continue to do so.

Comment B: (Draft List) Issue No. 14 – Review/revise beneficial use designation for listed water bodies. The concrete-lined portions of San Sevaine Creek should be identified as Limited Warm (LWRM) to be consistent with the listing of water bodies such as Chino Creek, Reach 2, and Temescal Creek, Reach 1B.

Response B: Staff has prioritized reviewing beneficial uses designations for several water bodies, including San Sevaine Creek, during this triennial review. Studies of this issue would include review of all relevant data pertaining to which beneficial uses should be promulgated for San Sevaine Creek, and recommendations for Basin Plan revisions made accordingly.

**9. Jim Edmondson
California Trout
E-mailed comments received April 19, 2002**

Comments: Change in Beneficial Use Designation for Mill Creek, Lytle Creek, and Santa Ana River (Draft List Issue No. 10). Each of these stream/river section currently have a COLD beneficial use designation (in the Mountain Reaches only), and their water quality is substantially affected by controllable factors of hydropower and water supply diversions. We oppose any change in this designation.

Response: See response Comment No. 5.A.

**10. Lynne Fishel
Building Industry Association of Southern California, Orange County
Chapter
Mailed comments / April 22, 2002**

Comments: Calls attention to testimony at Regional Board hearings concerning the high cost and inefficiency of the new MS4 permits. Stresses importance of basing new water quality requirements on a sound understanding of their potential effectiveness in improving water quality, their cost, and their fair application.

Notes that the vast majority of its Basin Planning resources shown on the priority list are directed to TMDL development and incorporation of TMDLs into the Basin Plan. Observes that the level of effort proposed for other priority issues is small compared with the emphasis on TMDLs, and is insufficient. Questions priority, timing and resources proposed for study of Draft List Issue No.12 (Section 13241 issue). Argues that studies of other priority issues hinge on the outcome of studies of the Section 13241 issue, and that to conduct studies of other priority issues before studying the Section 13241 issue could lead to imposing unnecessary MS4 compliance costs on cities and counties.

Questions the appropriateness of listing the water bodies mentioned in Draft List Issue No. 11. Expresses concern that the TMDL program, "...will be compromised if it attempts to apply standards intended for creeks, rivers, bays and beaches to storm drains and small creeks that are not available for REC 1 and REC 2 and are inappropriate for MUN designations. It is neither wise public policy nor a proper allocation of the public resources...to require MUN, REC 1 or REC 2 standards of open storm drains or bodies of water such as ephemeral creeks or creeks supported primarily by reclaimed water or irrigation return flows."

Questions and opposes proposed MUN, REC 1 or REC 2 beneficial use designation for the Santa Ana Delhi Channel, pointing out that it is concrete lined, fenced off and illegal to swim in. Cites Water Code Section 13241 factors to be considered in establishing water quality objectives, "...shall include, but not necessarily be limited to ... past,

present, and future uses,” as the basis of this argument. Anticipates that staff will argue that such designations are needed because the Delhi Channel flows into a MUN or REC 1 water body, and claims this to be a false interpretation of the Tributary Rule.

Pleads for caution when imposing REC 2 standards, citing a SWRCB study in Mission Bay, San Diego, that concluded there is no difference in bacteria levels in runoff from developed and undeveloped land.

Responses: Resources for and timing of TMDLs cannot be diverted; TMDLs are a top priority statewide and the funding for TMDLs cannot be diverted for other purposes. Draft List Issue 12 (to consider Section 13241 factors) has been re-prioritized to Final Draft List Issue No. 4, in light of the other issues above and below it on the Final Draft Priority List, and because of stakeholder interest in supporting studies of this issue. It is staff’s goal that a comprehensive study of the issue be timely conducted, with resources provided by the Board’s stakeholder community.

Adding certain water bodies to the Basin Plan, and determining appropriate water quality standards for them, has been elevated to No. 8 the Final Draft Priority List. Santa Ana Delhi channel is a candidate for listing as impaired. Buck Gully, etc., flow into biologically sensitive and/or recreationally popular water bodies. Waters must be inventoried (and appropriate water quality standards established) in water quality control plans in order to afford them the full protection of the Water Code and Clean Water Act. SWRCB staff has determined that before a water can be found to be impaired, placed on the 303(d) list of impaired waters, and considered for TMDLs, it must first be listed in a Basin Plan, and water quality standards specified for it. Therefore, listing these waters in the Basin Plan is a necessary prerequisite to protecting and/or restoring the water quality standards (whatever they may be) of these waters.

A thorough study of these water bodies will be conducted to determine appropriate water quality objectives, in accordance with Water Code Section 13241, and beneficial uses.

One of the stated goals of the Clean Water Act (Section 101) is to restore the chemical, physical, and biological integrity of national waters, i.e., the nation’s waters should be made “fishable and swimmable.” From this comes USEPA’s current water quality regulatory posture that “fishable / swimmable” uses are attainable, and therefore should be applied to, in all surface waters, unless it is affirmatively demonstrated that such uses cannot be reasonably attained. Considering this goal and posture, possible beneficial uses for these water bodies include REC-1, REC-2, WARM, and WILD (possibly excepting water bodies from MUN in accordance with criteria specified in the SWRCB’s “Sources of Drinking Water Policy”). Furthermore, where REC-1 or REC-2 have been assigned to a water, these beneficial uses exist, or, through controllable water quality factors, have the potential to exist. The REC-1 or REC-2 beneficial use designations are not to be construed as encouraging

recreational activities. See our response to Comment No.13 for further clarification.

**11. Mark Sheppard
Building Industry Association of Southern California / Baldy View
Chapter
Written comments / April 22, 2002**

Comment: These comments are identical to those submitted by Commenter No. 10.

Response: See response to Comment No. 10

**12. Karen Fricke
Apartment Association Greater Inland Empire
Written comments / April 22, 2002**

Comments: Similar to comments No. 10, 11, and 14.

Response: See response to Comment No. 10

**13. Larry Agran, Mayor
City of Irvine
Written comments / April 24, 2002**

Comments: "The Irvine City Council is concerned that the Board's Total Maximum Daily Load (TMDL) program will be compromised unless appropriate classifications of various water bodies, such as flood control channels and small creeks, are attained. Our concern is that this review process, as currently defined, will result in beneficial use designations that are inappropriate, impractical, and ultimately not unattainable."

Response: Existing beneficial uses can be established by demonstrating that:

- fishing, swimming, or other beneficial uses have actually occurred since November 28, 1975 (40 CFR 131.3 (e)); or,
- The water quality and quantity is suitable to allow the use to be attained.

Potential beneficial uses will be assigned considering:

- Past, present, and probable beneficial uses of water; and,
- Water quality conditions that could reasonably be achieved through the coordinated control of all factors that affect water quality in the area (California Water Code Section 13241).

Thorough surveys of waters not previously listed in the Basin Plan will be conducted to determine their appropriate beneficial uses.

**14. Virginia Grebbien, P.E.
Orange County Water District
Written Comments / April 26, 2002**

Comments: OCWD supports the high priority (number One) assigned in the draft priority list to addressing the findings of the Nitrogen/TDS Study...Given

these successes, it is important to continue moving forward on the dairy issues. Following a review of the Basin Plan priorities listed in the Triennial Review, it is OCWD's position that the proposed downgrading of the Dairy Issue to No. 19 is too significant a relaxation in priority.

Response: Comment noted regarding addressing the findings of the Nitrogen/TDS Study.

The Board remains firmly committed to the continued implementation of its "Dairy Regulatory Strategy" as a priority program. "Review of the Animal Confinement Facilities (Dairies) discussion," was placed on the priority list because elements of the strategy are being implemented, and the discussion is no longer up to date. The lower priority given to updating this discussion does not signal a change in the Board's commitment to implementing its "Dairy Regulatory Strategy."

**15. Christine Diemer Iger, Esq.
Southern California Water Quality Coalition
Written Comments / April 26, 2002**

Comments: In summary, because the TMDL program is benchmarked to the Basin Plan's water quality standards, the Board's principle goal for the triennial review ought to be a plenary review and revision of its water quality standards for bacteria, for the MUN and REC designations, including consideration of Water Code Section 13241 factors. Water quality standards must be implementable, and must be accompanied by a "program of implementation." Once the standards are brought into better conformance to reasonable and attainable water quality priorities, the TMDL program will have an excellent foundation.

The agency (i.e., the Regional Board) is respectfully requested to make some minor adjustments to the (Draft) Priority List as follows:

- (Draft List) Task 4 (REC1 / REC2)– Increase the level-of-effort to 4 person-years (PYs), complete the task in the first two years of the review, and use this task to conduct a plenary review of bacteriological standards and their application and relevance to storm water not impacted by sewage.
- (Draft List) Task 12 (Section 13241)– Complete Task 12 in the first two years of the review. Increase the level-of-effort to 10 PY.
- (Draft List) Task 14 – Increase the level-of-effort to 2 PY, complete the task in the first two years of the review, and use this task to review the agency's policy of designating as a water supply (i.e., the "MUN" designation), water bodies and storm drains for which use as a water supply is wholly improbable.
- (Draft List) Task 11 (Review / revise beneficial uses for specified waters)– Reserve consideration of water quality standards for storm drains and coastal creeks until Task 12 has been completed.
- New Task – Commit 4 PY to develop a program to implement water quality standards, including the identification of specific actions the agency believes are necessary to achieve its objectives during both

wet and dry weather, and taking into account the physical and institutional constraints associated with the region's water.

Response: Concerning TMDL development, see response to Comment No. 10.

(Draft List) Task 4 - USEPA has directed the states to revise bacteriological water quality standards by 2003 using USEPA's published national criteria guidance. We believe that the proposed resource allocations are a conservative estimate of the resources needed to accomplish this task, and are appropriate at this time.

(Draft List) Task 12 – A stakeholder work group is forming to study this issue. Board staff is committing 0.5 PY to work with this group to scope the necessary studies, participate in consultant selection, take part in work group meetings, etc. It is likely that the scoped studies will take place over several years.

(Draft List) Task 14 – Waters in the Region have been designated MUN as directed by the SWRCB's "Sources of Drinking Water" Policy. Systems that carry storm water runoff may be exempt from this designation in accordance with the Policy. We believe that the proposed resource allocations are a conservative estimate of the resources needed to accomplish this task, and are appropriate at this time.

Draft List Issue No. 12 has been moved to Final Draft List Issue No. 4. Draft List Issue No. 11 has been moved to Final Draft List Issue No. 8. It is likely that studies of these issues will take place concurrently, and that findings from the study of Final Draft List Issue No. 4 will be used in the analysis of Final Draft List Issue No. 8.

Board staff does not believe it is necessary for the Basin Plan to include separate dry and wet weather water quality standards, or strategies for implementing dry and wet weather water quality standards, at this time. Completion of studies outlined in this Triennial Review may point to the need for dry and wet weather water quality standards in the future.

Oral Comments presented at the April 26, 2002 Board Meeting

16. Vicki L. Wilson, Director
Orange County Public Facilities and Resource Department
Submitted written comments dated April 25, 2002

Comments: A. The implications of every decision related to the Basin Plan should be carefully considered not only from the perspective of the challenging technical and scientific issues that Board staff must address, but also in the larger context of the goals and expectations of the communities within Region 8. It is critically important that the counties and cities participate collaboratively in the process of reviewing changes to the Basin Plan.

B. Review of the Basin Plan should include a consideration of the appropriateness of existing beneficial use designations and objectives.

Some of the current water quality standards have relatively little scientific underpinnings. A great deal has been learned about water quality and how our streams function during the nearly thirty years since the Basin Plan was originally written.

C. (Draft List) Task 12 is of paramount importance and needs to be completed as early as possible. To be effective, it must precede many of the other tasks. (Draft List) Task 4 should be given a high priority and additional staffing.

- Reponses:
- A. Comment noted. Staff continues to work collaboratively on Basin Planning issues with all stakeholders willing to participate. Our goal is to allow thorough public participation in the triennial review, through workshops, mailings, hearing notices, meetings, web postings, etc.
 - B. Comment noted. When proposing revisions to existing beneficial uses, the most up to date scientific information will be used.
 - C. Regarding Draft List Issue No. 12, see response to Comment No. 8.A and No. 15. On the Final Draft List, this is now Issue No. 4.
- Draft List Issue No. 4 has been moved to Final Draft List Issue No. 8. This change was necessary to address higher priority issues. Issue No. 8 can be addressed with current resources.

**17. Larry McKenney, Manager
Watershed & Coastal Resources Division
Orange County Public Facilities and Resource Department**

- Comments:
- A. Orange County is prepared to “leverage the process,” and use County staff to assist Board staff to address triennial review issues of importance to the county.
 - B. Concerning Draft List Issue 11, “Add the following water bodies to the Basin Plan and assign appropriate beneficial uses,” in addition to taking into account the appropriateness of the beneficial use designations the Regional Board should “go slow” on these issues, as new guidance from the EPA is soon forthcoming.

- Response:
- A. Comment noted.
 - B. Comment noted. See responses to Comment No. 10 and No. 13.

**18. Beth Krom, Mayor Pro Tem
City of Irvine**

- Comments:
- Designating San Diego Creek REC 1 and REC 2 is not appropriate particularly since the Creek is a functioning flood control facility with restricted access.

(Ms. Fromme also provided a comment letter from the City (see Comment No. 13).)

Response: REC1 and REC2 beneficial uses have been assigned to San Diego Creek in accordance with the California Water Code, the federal Clean Water Act, and regulations adopted to implement the CWA and the Water Code. A present or an existing beneficial use can be established by demonstrating that, fishing, swimming, or other uses have actually occurred since November 28, 1975, when the CWA became law. Therefore, these beneficial uses appear appropriate unless it can be affirmatively demonstrated that these uses are not attainable.

**19. Harry Thomas, Public Works Director
City of Orange**

Comments: The Triennial Review process must be one with a predicable outcome based on application of the best science especially concerning when assigning REC 1 and REC 2 beneficial uses and with (Draft List) Issues No.4 and No. 12.

Response: All issues studied as part of the Triennial Review, and other studies that may lead to Basin Plan amendments such as TMDLs, are and will be conducted using the best available science, and conclusions will be peer reviewed. Consequently, study outcomes and conclusions may not be entirely predictable at the outset of the study. See response to Comment No. 18.

**20. Christine Diemer Iger, Esq.
Representing the Southern California Water Quality Coalition**

Comment: (Ms. Diemer Iger's comments at the Board meeting mirrored the contents of her written comments, No. 15.)

Response: See response to Comment No. 15.

**21. Tim Piasky
Building Industry Association**

Comments: Staff resources should be diverted from TMDL work to Basin Plan revisions / updates.

Response: Jerry Thibeault indicated that this was not possible because the SWRCB has made TMDLs its top priority, and resources could not be diverted from it. See our response to Comment No. 10.

**22. Glen Greener
Building Industry Association / Riverside**

Comment: Supported remarks of other commenters, but had no specific comments.

Response: None needed.

**23. Jeff Nielson
Representing the Redlands Chamber of Commerce**

Comments: Reports that the Santa Ana Delhi Channel is concrete lined and fenced off and not appropriate to be assigned MUN, REC1, and REC 2 beneficial uses. Suggests treating wastewater (discharging) out this of storm drain rather than list channel (as an impaired water body).

Response: A recent survey of the Santa Ana Delhi Channel showed that approximately 35% of the total channel length has an earthen bottom. See our response to Comment No. 10 and No. 13 concerning assigning beneficial uses. Non-point source (NPS) pollutant loadings in urban runoff are usually most efficiently addressed with "best management practices" (BMPs) source control alternatives. End-of-pipe treatment alternatives for urban runoff flows should be considered as part of a rigorous analysis of compliance alternatives.

24. Board Member Fred Ameri

Comments: Those in the regulated community who want more out of the Basin Plan review and update process should contribute funding to the process. Mr. Ameri suggested that staff should solicit financial support from potentially affected agencies.

Response: A meeting was held on June 14, 2002, with stakeholders to explore possible collaboration for the review of Triennial Review issues. Several agencies and other groups indicated their commitment to support this concept. It is anticipated that groups will present their proposal for study of triennial review issues at upcoming Regional Board Meetings. Because of the current state-hiring freeze, stakeholder-supported staff positions to work on Triennial Review issues is not an option at this time.

25. Board Member John Withers

Comments: Staff should prepare a work plan / resource allocation plan to do the work identified in the Triennial Review list. Mr. Withers also commented that informal meetings should be held with stakeholders to establish Triennial Review priorities for both funding and work.

Response: Executive Officer G.J. Thibeault responded to Mr. Withers' comments by pointing out that the draft priority list is a work and resource allocation plan. He responded to the suggestion of a stakeholder meeting, by stating that potential parties willing to fund studies of Triennial Review issues and help establish review priorities have already been notified that the review process is underway (i.e., received announcement of the workshop and Triennial Review list of issues and discussion paper).

The list of issues considered for the Triennial Review is now entitled "Triennial Review Priority List and Work Plan."

26. Board Member Jose Solorio

Comments: Staff should actively seek outside funding for the Triennial Review. (Draft List) Issue No. 10 (designating new reaches of streams), No. 11 (adding water bodies), and No. 14 (revising beneficial uses), should be moved to a higher priority. Set up 303(d) list and pay attention to beneficial use designations.

Responses: Board staff is actively seeking stakeholder support for review of Triennial Review issues. Two different stakeholder groups, with interests in separate Triennial Review issues, have responded positively to this initiative. Board staff is committed to working with these groups. See also response to Comment No. 16 and No. 24.

Draft List Issue No. 10 has been moved to Final Draft List Issue No. 5, and Draft List Issue No. 11 has been moved to Final Draft List Issue No. 8.